THE BOMBAY FORFEITED LANDS RESTORATION ACT, 1938.

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BOMBAY ACT No. XXII OF 1938.[1]

[THE BOMBAY FORFEITED LANDS RESTORATION ACT, 1938.]

[*29th November 1938.*]

An Act to provide for the restoration of lands forfeited during the Civil Disobedience Movement for the non-payment of land revenue and other sums due to Government.

WHEREAS certain lands were forfeited as a result of the Civil Disobedience Movement for the non-payment of land revenue and other sums due to Government; And whereas the said lands were disposed of to certain persons for inadequate consideration; And whereas it is just and expedient to acquire them with a view to restore them to the original holders thereof; It is hereby enacted as follows :—

Short title, commencement and extent.

1. (*1*) This Act may be called the Bombay Forfeited Lands Restoration Act, 1938.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) " Forfeited land " means any of the lands forfeited to the Crown during the Civil Disobedience Movement in any of the years 1930 to 1934 for non-payment of land revenue or other sums due to Government and specified in the notification published in the Official Gazette by the Provincial Government within six months from the date on which this Act comes into force. The expression " Forfeiture of lands " shall be construed accordingly.

(*2*) " Original holder " in relation to any forfeited land means a person who owned the land at the time of its forfeiture and includes his heirs.

(*3*) " Prescribed " means prescribed by rules.

(*4*) " Tribunal " means the Tribunal constituted under section 3.

(*5*) " Rules " means rules made under section 14.

(*6*) Words and expressions not defined in this Act but defined in the Land Acquisition Act, 1894, shall have the meanings assigned to them in that Act.

I of 1894.

Constitution of Tribunal.

3. For the purposes of this Act, the Provincial Government shall constitute a Tribunal consisting of such member or members as the Provincial Government may appoint. If the Tribunal consists of one member, such member, and if it consists of more than one member, the President, shall be a person who is or has been a Judge of a High Court.

Declaration that land is needed for restoration.

4. (*1*) The Provincial Government, if it is satisfied that any of the forfeited lands is needed for a public purpose and should, therefore, in public interest be acquired and restored to the original holder, may make a declaration that the said land is needed for such purpose.

(*2*) The declaration shall be published in the Official Gazette and shall state all the material particulars in regard to the said land.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 551 and 552; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 2827-2898, 2902-2984, and 2988-3065; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938 Vol. 4, pp. 304-363.

(*3*) Such declaration shall be conclusive evidence that the said land is needed for such purpose.

Notice to persons interested

5. (*1*) On the publication of the declaration under section 4, the Tribunal shall cause public notice to be given at convenient places at or near the land to be acquired stating that the Provincial Government intends to acquire the said land.

(*2*) Such notice shall also state the particulars of the said land and shall require all persons interested in the said land to appear personally or by agent before the Tribunal at the time and place therein mentioned (such time not being earlier than one month after the date of publication of the notice) and to state the nature of their respective interests in the said land and the amount and particulars of their claims to compensation for such interest.

(*3*) The Tribunal shall also serve notice by registered post to the same effect on the occupier, if any, of such land and on all persons known or believed to be interested therein.

(*4*) The original holder of the land and the Collector shall also be served with a notice by registered post intimating to them the time and place of the enquiry by the Tribunal and shall be entitled to appear in such enquiry either personally or by agent.

Power to require and enforce the making of statements, etc.

6. (*1*) The Tribunal may also by notice in writing require any person interested in the land to make or deliver to it at the time and place mentioned (such time not being earlier than one month from the date of such notice) a statement containing, so far as may be practicable, the name of any other person interested in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and particulars regarding the nature of such interest and the rents and profits, if any, received or receivable on account thereof.

(*2*) Every person required to make or deliver a statement under this section or under section 5 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860

Inquiry by Tribunal and Award.

7. (*1*) On the day fixed in the notice given by the Tribunal under section 5 or any other day to which the inquiry may be adjourned, the Tribunal shall proceed to enquire regarding—

(*i*) the amount of compensation to be awarded for the land ; and

(*ii*) the respective interests of the persons claiming compensation.

(*2*) The Tribunal shall then make an award stating the amount of compensation which in its opinion should be awarded for the land. Such award shall be in writing and where there are several persons interested in the land, the award shall also state the amount of compensation to be awarded to each.

Procedure before Tribunal.

8. Save as otherwise provided by or under this Act, the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to any enquiry before the Tribunal under this Act. V of 1908

Amount of compensation.

9. (*1*) Subject to the provisions of sub-sections (*3*), (*4*) and (*5*), the amount of compensation to be awarded for the land shall, after making deductions in respect of matters specified in sub-section (*2*), be—

(*a*) the amount paid to the Provincial Government as occupancy price for the land,

(*b*) the amount of expenditure incurred in making improvements on the land after its disposal by the Provincial Government until the date of the declaration under section 4,

(*c*) the amount of land revenue paid in respect of the land after its disposal by the Provincial Government until the date of the award, and

(*d*) interest at the rate of 4 per cent. per annum on the amounts mentioned in (*a*), (*b*) and (*c*) until the date of the award.

(*2*) In determining the amount of the compensation to be awarded, the Tribunal shall make deductions in respect of the following matters, namely:—

(*a*) the profits, if any, received by the holder for the time being from the land during the period mentioned in clause (*c*) of sub-section (*1*), and

(*b*) any damage resulting from any act, permanently injurious or destructive to the land, committed by the holder for the time being or any person acting on his behalf during the period mentioned in clause (*c*) of sub-section (*1*):

Provided that the amount of compensation to be awarded under sub-section (*1*) shall not in any case be less than the total of the amount mentioned in clauses (*a*) and (*b*) of the said sub-section.

(*3*) If the holder for the time being, within 15 days from the date of the publication of the notice under section 5, intimates in writing to the Collector that he is willing to receive as compensation a sum equal to the amounts mentioned in clauses (*a*) and (*b*) of sub-section (*1*) together with the interest thereon at the rate and for the period mentioned in clause (*d*) of the said sub-section, the amount of compensation to be awarded for the land shall be the said sum without making any deductions therefrom in respect of any of the matters mentioned in sub-section (*2*).

(*4*) In cases where the holder for the time being is not the person to whom the land was disposed of by the Provincial Government but has purchased the land in good faith and for consideration before the first day of April 1938, the amount of compensation to be awarded shall be—

(*a*) the amount paid by such holder as price for the land, and

(*b*) the amount of expenditure incurred by such holder in making improvements on the land until the date of the declaration under section 4.

(*5*) In cases where the land is subject to any mortgage or charge which has been made or created in favour of a person who has advanced money in good faith, the amount of compensation to be awarded to such person shall be—

(*a*) the unpaid balance of the principal advanced, and

(*b*) if such person is not in possession of the land, the unpaid amount of interest payable on the principal at such rate as may have been specified in the instrument of mortgage or charge but not exceeding 7½ per cent. per annum.

Nothing in this sub-section shall bar the right of such person to enforce his rights against the mortgagor or the person who created the charge in respect of the balance due to him.

(*6*) In addition to the amount of compensation awarded under sub-section (*1*), (*3*), (*4*) or (*5*), as the case may be, the Tribunal shall in every case award a sum of 15 per cent. on the said amount.

Explanation.—For the purposes of this section " holder for the time being " means the person who is the owner of the land on the date of the declaration under section 4.

10. (*1*) After the award is made, the Collector shall tender payment of the amount awarded to the persons entitled thereto according to the award and shall pay it to them unless prevented by any of the contingencies mentioned in sub-section (*2*). Payment amount awarded.

(*2*) If such persons do not consent to receive it or if any of them is under any legal disability and there is no person competent to receive it on his behalf, the amount awarded or part thereof, as the case may be, shall remain in deposit with the Collector for a period of three years from the date of the deposit or from the date when the person entitled to receive it ceases to be under a legal disability, as the case may be. After the expiry of the said period, such amount, if not paid, shall lapse and shall be credited to the revenues of the Province.

Arrangement instead of money compensation.

11. Notwithstanding anything contained in this Act, the Tribunal may, with the sanction of the Provincial Government, instead of awarding money compensation in respect of any land, make any arrangement with the person having interest in such land either by grant of another land in exchange or in such other way as may be equitable.

Award or arrangement to be final and conclusive.

12. The award made by the Tribunal under section 7 or any arrangement arrived at under section 11 shall be final and binding on all persons interested in the land.

Possession of land to be taken after declaration and land to vest absolutely in Provincial Government.

13. (*1*) After the expiration of fifteen days from the publication of the notice under section 5, the Provincial Government may, at any time, direct the Collector to take possession of the land mentioned in the declaration under section 4. On such direction being given the Collector shall take possession of the land.

(*2*) If at the time of taking possession of the land under sub-section (*1*), there are any standing crops on the land, the Collector shall offer to the persons interested such compensation as is in his opinion reasonable for the said crops. The decision of the Collector regarding the amount of such compensation shall subject to the provisions of sub-section (*3*) be final. In case, such offer is not accepted, the Collector shall keep the amount of such compensation in deposit and the provisions of sub-section (*2*) of section 10 shall, so far as may be, apply to such deposit.

(*3*) Any person aggrieved by the decision of the Collector regarding the amount of compensation under sub-section (*2*) may within fifteen days from the date of the said decision appeal to the Tribunal. The decision of the Tribunal in such appeal shall be final.

(*4*) Such land shall, on its possession being taken by the Collector under sub-section (*1*), vest absolutely in the Provincial Government free from all encumbrances and the Provincial Government may restore it to the original holder thereof on such terms and conditions as it thinks fit.

Rules.

14. The Provincial Government may make rules for the purpose of carrying out the objects of this Act.